



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,377	03/28/2000	Douglas Clark	M3653.0001/P001-C	4895
24998	7590	01/13/2004	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 2101 L STREET NW WASHINGTON, DC 20037-1526				THOMPSON JR, FOREST
ART UNIT		PAPER NUMBER		
		3625		

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 17

Application Number: 09/536,377
Filing Date: March 28, 2000
Appellant(s): CLARK, DOUGLAS

MAILED

JAN 13 2004

100-3800

Jon D. Grossman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/30/2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1, 6-8, and 10-33 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

6,047,260

Levinson

04-2000

Duncan, William R.; "A Guide to the Project Management Body of Knowledge;" PMI Standards Committee; 1966

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims, as presented in the Final Action (see Paper #7):

Claim Rejections - 35 USC § 103

A. Claims 1, 6-8, 10-11, and 16-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over William R. Duncan, "A Guide to the Project Management Body of Knowledge," Project management Institute, 1996 (hereafter referred to as Duncan), and further in view of Levinson (U.S. Patent No. 6,047,260).

Claims 1, 10: Duncan discloses:

- breaking a current project into a plurality of tasks, wherein the status of said project is tracked on the basis of at least one task related event for each of said plurality of tasks (pg. 30-32, para. 3.3.2; pg. 59, para. 6.1);
- setting a tasking horizon based on a predetermined time interval (pg. 30-32, para. 3.3.2; pg. 170), described in the context of target finish date determination and schedule development;
- associating at least two verbs with said at least one task related event for each of said plurality of tasks (pg. 46, para. 4.3.3.3), where verbs and language are encompassed by lessons learned;

- receiving a respective predicted date for at least one task related event (pg. 31; fig. 3-5 [6.3]), which is disclosed in activity duration estimating;
- receiving a corresponding actual date for each task related event for which a predicted date was received (pg. 31; fig. 3-5 [6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start date;
- for each actual date received, receiving a verb associated with the respective task related event, said received verb being one of said at least two verbs (pg. 31; fig. 3-5 [6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start date;

capturing at least the predicted dates, actual dates and verbs received for each of said task related events and updating the project status based on the captured information, to thereby provide accurate and real time data regarding said current project and said plurality of tasks of said project (pg. 31; fig. 3-5 [6.3, 6.4]; pg. 159);

- at least one task assignment station (pg. 96; fig. 9-2);
- said management module and said task assignment station are operationally connected (pg. 8-9-10, para. 1.4-5; fig. 1-2); and
- said management module receives predicted dates and actual dates entered at said task assignment station (pg. 31; fig. 3-5 [6.3]; pg. 31; fig. 3-5 [6.4]; pg. 159).

Duncan does not specifically disclose automatically updating the project status based on the captured information. However, Levinson discloses automatically updating a schedule of tasks as changes occur in the plan due to various reasons (col. 4 lines 32-41). Therefore, it would have been obvious to one skilled in the art at the

time the invention was made to modify the disclosure of Duncan to specifically disclose automatically updating the project status based on the captured information, as disclosed by Levinson, for the motivation of monitoring and managing a project.

Claim 6. Duncan discloses computing a risk factor for at least one of said plurality of tasks based on data of at least one of said computed churn and said received verb, said data corresponding respectively to said at least one of said plurality of tasks (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

Claim 7. Duncan discloses:

- comparing said plurality of tasks of said current project to a plurality of tasks of at least one past project (pg. 46; para. 4.3.3.3; fig. 6-1; para. 6.1.1.3; pg. 113 para. 11.1.1.3);
- extracting previously performed task completion data for said plurality of tasks for said at least one past project (pg. 46; para. 4.3.3.3; fig. 6-1; para. 6.1.1.3; pg. 113 para. 11.1.1.3); and
- computing an expected task completion time for at least one of said plurality of tasks of said current project based at least in part on said previously performed task completion data (pg. 46; para. 4.3.3.3; fig. 6-1; para. 6.1.1.3; 6.1.3; pg. 113 para. 11.1.1.3).

Claim 8. Duncan discloses:

- comparing said plurality of tasks of said current project to a plurality of tasks of at least one past project (pg. 46; para. 4.3.3.3; fig. 6-1; para. 6.1.1.3; pg. 113 para. 11.1.1.3);
- extracting at least one risk factor associated with said plurality of tasks of said at least one past project (pg. 46; para. 4.3.3.3; fig. 6-1; para. 6.1.1.3; pg. 113 para. 11.1.1.3); and
- computing a risk factor for at least one of said plurality of tasks for said current project based at least in part on said extracted at least one risk factor (fig. 11-1 [11.1.3; 11.2.2-3; 11.3.3; 11.1-3]; as encompassed by the identification and quantification of risk.

Claim 11. Duncan does not specifically disclose computing churn for each task related event for which a predicted date and an actual date was received, based on differences between corresponding ones of said received predicted and actual dates relative to said tasking horizon. However, Duncan does disclose the functionality for computing churn for said tasks (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify Duncan to specifically compute churn each task related event for which a predicted date and an actual date was received, based on differences between corresponding ones of said received predicted and actual dates relative to said tasking horizon, because Duncan does disclose the necessary

functionality for these computations and these specific features may enhance the desirability of the invention to potential users.

Claim 16. Duncan does not specifically disclose information relating to the performance of said plurality of tasks is captured from at least one of electronic mail, documents, spreadsheets, and over the Internet. However, Levinson discloses information relating to the performance of said plurality of tasks is captured from at least one of electronic mail, documents, spreadsheets, and over the internet (col. 7 lines 17-43). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Duncan to specifically disclose information relating to the performance of said plurality of tasks is captured from at least one of electronic mail, documents, spreadsheets, and over the Internet, as disclosed by Levinson, for the motivation of monitoring and managing a project.

Claims 17, 20, 24, 29, 30: Duncan discloses:

- capturing information relating to the performance of a plurality of tasks within a project (pg. 103 1st paragraph; pg. 106 para. 10.1.3.1);
- processing the captured information to generate a current task table (pg. 109 para. 10.3.3.1);
- accessing a look-up table containing historical data (pg. 109 para. 10.3.3.1-2);

and

- comparing said information in said current task table with said historical data in said look-up table to determine whether said information of said current task table is associated with a pre-existing project or a task within said pre-existing project (pg. 50 para. 5.1.1.4 - 5.1.2.1).

Duncan does not specifically disclose, upon determining that said information in said current task table is associated with one of a pre-existing project or a task within a pre-existing project, automatically updating said pre-existing project or said task within said pre-existing project. However, Levinson discloses automatically updating a schedule of tasks as changes occur in the plan due to various reasons (col. 4 lines 32-41). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Duncan to automatically update said pre-existing project or said task within said pre-existing project, as disclosed by Levinson, for the motivation of monitoring and managing a project.

Claim 18. Duncan does not specifically disclose the automatic project updating module includes a task data processing system and at least one medium for providing data to said task data processing system. However, Levinson does disclose a calendaring system that provides a task data processing system and at least one medium for providing data (col. 6 lines 18-35), through the functionality of entering a script into the system of Levinson. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Duncan to specifically disclose a task data processing system and at least one medium for

providing data to said task data processing system, as disclosed by Levinson, for the motivation of monitoring and managing a project.

Claim 19. Duncan discloses databases that store historical data for a current project and other projects of the performing organization (pg. 58 para. 5.5.3.3). Duncan does not specifically disclose said task data processing system includes a processor database system for processing captured information and generating a current task table, and a look-up table containing historical information relevant to all project and task data within said data processing system. Duncan does disclose the availability of historical data to provide the causes of variances, the reasoning behind the corrective action chosen, and other types of lessons learned from scope change control that should be documented so that this information becomes part of the historical database for both this project and other projects of the performing organization (pg. 58 para. 5.5.3.3); and the causes of variances, the reasoning behind the corrective action chosen, and other types of lessons learned from schedule control should be documented so that they become part of the historical database for both this project and other projects of the performing organization (pg. 72 para. 6.5.3.3). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Duncan to specifically disclose said task data processing system includes a processor database system for processing captured information and generating a current task table, and a look-up table containing historical information

relevant to all project and task data within said data processing system, as disclosed by the functionality of Duncan, for the motivation of monitoring and managing a project.

Claim 21. Claim 21 is written as an apparatus and contains the same limitations as claim 13; therefore, the same rejection is applied.

Claim 22. Claim 22 is written as an apparatus and contains the same limitations as claim 14; therefore, the same rejection is applied.

Claim 23. Claim 23 is written as an apparatus and contains the same limitations as claim 15; therefore, the same rejection is applied.

Claim 25. Claim 25 is written as a method and contains the same limitations as claim 12; therefore, the same rejection is applied.

Claim 26. Claim 26 is written as a method and contains the same limitations as claim 13; therefore, the same rejection is applied.

Claim 27. Claim 27 is written as a method and contains the same limitations as claim 14; therefore, the same rejection is applied.

Claim 28. Claim 28 is written as a method and contains the same limitations as claim 15; therefore, the same rejection is applied.

Claim 31. Claim 31 is written as an automatic project updating module and contains the same limitations as claim 13; therefore, the same rejection is applied.

Claim 32. Claim 32 is written as an automatic project updating module and contains the same limitations as claim 14; therefore, the same rejection is applied.

Claim 33. Claim 33 is written as an automatic project updating module and contains the same limitations as claim 15; therefore, the same rejection is applied.

B. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over William R. Duncan, "A Guide to the Project Management Body of Knowledge," Project management Institute, 1996 (hereafter referred to as Duncan), and further in view of Levinson (U.S. Patent No. 6,047,260) and Official Notice.

Claim 12. Neither Duncan nor Levinson specifically disclose information relating to the performance of said plurality of tasks can be captured automatically upon use of an electronic communication device. However, Official Notice is taken that capturing and storing information based on use of a communications device was old and well known in the art at the time the invention was made. One example is the downloading and storing of information at a computer that was presented by a service provider connected to the Internet. Levinson discloses receiving information over the Internet (col. 7 lines 17-23). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosures of Duncan and Levinson to automatically capture and store information based upon use of a communications device, as disclosed by old and well known art, for the motivation of monitoring and managing a project.

Claim 13. Duncan does not explicitly disclose said information relating to the performance of said plurality of tasks is provided via a device selected from the group consisting of a computer, a telephone, a facsimile machine, a copier machine, a laptop computer, a personal digital assistant, a cellular telephone, and a wireless telephone. However, Levinson discloses said information relating to the performance of said plurality of tasks is provided via a computer (col. 7 lines 17-43). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Duncan to specifically provide via a computer said information relating to the performance of said plurality of tasks, as disclosed by Levinson, for the motivation of monitoring and managing a project.

Claim 14. Neither Duncan nor Levinson specifically disclose identifying a user upon the use of a specific device to provide information relating to the performance of said plurality of tasks. However, Official Notice is taken that organizations that provide computer access to their subscribers, users or employees typically provide means for users to identify themselves to the system as authorized users. Organizations typically require identification for one or more reasons that may encompass network/information security and equipment usage monitoring/regulation. One means used for this requirement is the use of authorized usernames and passwords for users at their assigned workstations. Therefore, it would have been obvious to one skilled in the use of the art at the time the invention was made to modify the disclosures of Duncan and

Levinson to specifically require users to identify themselves, as disclosed by old and well known art, for the motivation of monitoring and managing a project.

Claim 15. Duncan does not specifically disclose microanalyzing at least one of an individual's effort, cost data, churn, work performance, task performance, contributions to said project, and contributions to a company based on said captured information, the identification of the user, and the specific device used to provide said information.

However, Levinson discloses analyzing at least one of an individual's effort, cost data, churn, work performance, task performance, contributions to said project, and contributions to a company based on said captured information, the identification of the user (Abstract). Levinson does not specifically disclose microanalyzing based on the specific device used to provide said information. However, Official Notice is taken that users or employees of business assets (e.g., computer, workstation, telephone) typically have the business assets assigned to them by the business, and that business security practices require employees or users to use their assigned business assets.

Organizations typically require user identification in the use of business assets that may encompass network/information security and equipment usage. One means used for this requirement is the use of authorized usernames and passwords for users at their assigned workstations. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Duncan and Levinson to specifically disclose microanalyzing based on the specific device (such as a

workstation) used to provide said information, as disclosed by old and well known art, for the motivation of monitoring and managing a project.

(11) Response to Argument

A. Appellant argues, at pg. 6-18, that claims 1, 6-8, and 10-33 are not rendered obvious by Duncan in view of Levinson. See arguments and responses below.

Specifically:

1. **Appellant argues**, at pg. 6-9, that the concept of the term “tasking horizon” as claimed and defined in connection with the invention is neither taught nor suggested in the cited combination of Duncan and Levinson.

Examiner disagrees. Appellant attempts to limit the definition of tasking horizon to a single definition in the specification. But the specification has a plurality of definitions. For example, tasking horizon is defined as:

- (pg. 8) the farthest point in time in the future where a manager believes a task will be completed as planned (usually referred to as the tasking horizon); and
- (pg. 12) the tasking horizon is defined to be a realistic window of time over which tasks can be scheduled;
- (pg. 6) The tasking horizon is designed to be a realistic planning window that corresponds to the length of time most employees can plan their work.

Appellant’s arguments do not preclude the claim for encompassing in scope the definition that the examiner employs in his Final Action. Additionally, examiner set forth the

definitions that he has used in prosecution of this application as related to disclosures in Appellant's specification (see Paper #5):

- **tasking horizon** - the farthest point in time in the future where a manager believes a task will be completed as planned (pg. 8). Examiner interprets this to be synonymous with *planned end of task date* or *planned task completion date*.
- **verb** - designed to capture the type of dialogue that a worker would use to explain why a task was or was not started and/or completed as planned (pg. 12), or used to classify the reasons for churn, or in other words the reason for why the task was performed as planned or not performed as planned (pg. 14).
- **churn** - the movement of tasks in relation to the tasking horizon (pg. 8), or the difference between the planned start and stop dates and the actual start and stop dates (pg. 14)..

Therefore, examiner maintains the rejection.

2. **Appellant argues**, at pg. 9-11, that the concept of the term "verbs" as claimed and defined in connection with the invention is neither taught nor suggested in the cited combination of Duncan and Levinson . . . it can be seen that the "lessons learned" in Duncan merely reflect the generalized concept and goal of learning from the past, and is not restricted to associating predetermined words or phrases to be selected later by a worker. Nowhere in the cited section of Duncan, or, for that matter, anywhere in Duncan's entire disclosure is there any suggestion of a set or sets of predetermined, structured words

or phrases associated with the tasks or task related events of the tasks during a planning phase of the process, as defined by the term "verbs" used in the present invention.

Examiner disagrees. Duncan discloses a Glossary of terms (see pg. 157) that may be used with the Duncan invention and that encompasses presenting verbs (and other terms) used during the various stages of an activity or project. Some examples of verbs that Duncan discloses the Glossary include activity duration estimating, actual finish date, backward pass, forward pass, baseline finish date, scheduled finish date, hanger, lead, mitigation, monitoring, path convergence, percent complete, performance reporting, predecessor activity, project time management, remaining duration, risk event, risk identification, risk quantification, schedule variance, target completion date, workaround, work breakdown structure, work item and work package. Additionally, while the "lessons learned" is not restricted to associating predetermined words or phrases to be selected later by a worker, it does encompass/include associating predetermined words or phrases to be selected later by a worker. Examiner asserts that the terminology presented by examiner encompasses Appellant's definition of verb.

Therefore, examiner maintains the rejection.

3. **Appellant argues**, at pg. 11-13, that neither Duncan nor Levinson teaches or suggests automatically updating the project status in real time as recited in claims 1, 10, 24 and 29. Additionally, Levinson does not teach or suggest updating a project status (not schedule) in real time in response to information received about the tasks or task related events associated with that project. Levinson's "updating" merely rearranges the

user's schedule as needed but does not provide status information regarding any overall activity encompassing each scheduled appointment or event.

Examiner disagrees. In response to applicant's argument that Levinson is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Duncan states (on pg. 3) that the *Project Management Body of Knowledge* (PMBOK) is an inclusive term that describes the sum of knowledge within the profession of project management. Duncan discloses at pg. 28 section 3.2 that the process groups are linked by the results they produce -- the result or outcome of one becomes an input to another. Among the central process groups, the links are iterated -- planning provides executing with a documented project plan early on, and then provides documented updates to the plan as the project progresses. This disclosure infers automatically updating the project status in real time (i.e., *provides documented updates to the plan as the project progresses* [emphasis added]). Additionally, Levinson explicitly states (in the Abstract) that a method for intelligently planning is provided, comprising the steps of receiving a plurality of tasks that a user needs to perform, each task having an earliest start time, a latest stop time, a duration for completing the event and a reward value for completing the event, the tasks including a fixed task having the duration being equal to the time period between the earliest start time and the latest stop time and a floating task having a duration that is

less than the time period between the earliest start time and the latest stop time, arranging said fixed task into a plan for the user based on the earliest start time, duration and reward of the fixed task, determining an actual start time for the floating task within the time period between the earliest start time and the latest stop time based on the earliest start time and duration of the fixed task, and arranging said floating task into the plan for the user based on the selected actual start time and the reward of the floating task. A system for intelligently planning a series of events into a plan is also provided. Levinson's rearranging of a user's schedule as needed does infer status information as a user's schedule can portray a status of a user's accomplishments relating to planned tasks (i.e., a status of a task or project) through the disclosure of his scheduled and planned activities. Therefore, Levinson encompasses project planning and scheduling for a project that includes one or more tasks or activities. Therefore, Duncan and Levinson are analogous art. The combination of Duncan and Levinson discloses Appellant's invention.

Therefore, examiner maintains the rejection.

4. **Appellant argues**, at pg. 13-15, that neither Duncan nor Levinson teaches or suggests accessing a look-up table containing historical data and comparing information for the current tasks with the historical data. Independent claims 24 and 29, and dependent claims 17 and 19 recite a process and system which accesses a look-up table containing historical data. Claims 17, 20, 24 and 30 further recite comparing the information inputted by the users for the current tasks with the look-up table to

determine if the current task information is/are associated with any pre-existing project(s) or task(s). Claims 17, 20, 24 and 30 also recite that "upon determining that [the] information in [the] current task table is associated with [] a pre-existing project or task within a pre-existing project, automatically update[ing the] pre-existing project or task."

Examiner disagrees. Duncan discloses accessing historical data for consideration with a current project/task by the user (pg. 50 sect. 5.1.1.4). The concept of a table is encompassed by a database of almost any type that provides information to a user. Duncan discloses databases that store historical data (e.g., encompassing lessons learned) for a current project and other projects of the performing organization (encompassing historical data) (pg. 58 para. 5.5.3.3). This disclosure also encompasses the claimed aspects of "upon determining that [the] information in [the] current task table is associated with [] a pre-existing project or task within a pre-existing project, automatically update[ing the] pre-existing project or task." This also encompasses comparing the information in the look-up table with information in a current task table.

Therefore, examiner maintains the rejection.

Appellant also argues, at pg. 14 and 16, that, furthermore, it is noted these elements of the claimed invention, i.e. the claimed features relating to the creation of a current task table, accessing a look-up table, comparing the information in the two tables, and automatically updating the status of pre-existing projects and/or tasks if

information from the current task table is found to be associated with the pre-existing projects and/or tasks, are all performed during the execution of the project, and serve to provide real time information regarding the status of the project. In contrast, the cited sections, i.e., sections 5.1.1.4 and 5.1.2.1 in Duncan, are part of the initial planning stages of a project, and occur before the execution of any project tasks or activities. See, e.g., Duncan, Fig. 5-1 on p. 48 and Figs. 3-4 through 3-8 on pp. 30-35.

Examiner disagrees. Figure 3-2 on pg 29 illustrates that the process groups of Duncan overlap in time so that activities or events occur in multiple groups at the same time and not only before the execution of any project tasks or activities, as stated by Appellant. Therefore, the disclosure of Duncan encompasses the time sequence and span as claimed by Appellant, and also serves to provide real time information regarding the status of the project/task/activity during the execution of the project/tasks/activities.

Therefore, examiner maintains the rejection.

5. **Appellant argues**, at pg. 15-17, that neither Duncan nor Levinson teaches or suggests calculating a risk factor as claimed in accordance with Appellant's invention . . . Specifically, claims 6 and 8 each recite "computing a risk factor" or the capability to do so. Appellant's specification describes the term "risk factor" as either a percentage probability that an actual task date will deviate from the estimated task date, for example, or as a standard deviation of time within which the actual task date is likely to vary from the estimated date (specification, p. 19, ln. 3 - p. 20, ln. 6; p. 22, ln. 19 - p. 23,

In. 10, *inter alia*). That is, the risk factor computed in the claimed invention is a statistical number representing a probability.

Examiner disagrees. Duncan discloses the quantification of risks associated with a project, tasks and activities (see chapter 11). Associated with risk quantification, Duncan specifically identifies risk event probability and risk event value (pg. 115 section 11.2.2.1). Additionally, Duncan discloses (at pg. 117 section 11.2.2.3) that the results of a schedule simulation may be used to quantify the risk of various schedule alternatives, different project strategies, different paths through the network, or individual activities. Examiner asserts that Duncan's quantification of risk encompasses Appellant's claimed aspects of calculating a risk factor as a statistical number representing the probability that an actual date will vary from a predicted date.

Therefore, examiner maintains the rejection.

6. **Appellant argues**, at pg. 17-19, that the cited combination of Duncan and Levinson do not teach or suggest the concept of computing "churn." . . . Appellant also states that claim 11 further recites "computing churn . . . based on differences between corresponding ones of [] received predicted and actual dates relative to said tasking horizon."

Examiner disagrees. Duncan does not specifically disclose calculating churn for each event for which a predicted date and an actual date was received, based on differences between corresponding ones of said received predicted and actual dates relative to said tasking horizon. However, Duncan discloses tools to perform variance

analysis involving comparing actual project results to planned or expected results, trend analysis, earned value analysis, performance reports, change requests (pg. 30-32 para. 3.3.2-3.3.4; pg. 41-42, para. 4.1.3; pg. 107-109 para. 10.3-10.3.3; pg. 110, fig. 10-3; pg. 113, para. 11.1.1). This disclosure encompasses Appellant's claim aspect of computing churn through the aspect of performing variance analysis. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify **Duncan** to disclose the functionality necessary for computing "churn." and "computing churn ... based on differences between corresponding ones of received predicted and actual dates relative to said tasking horizon." The claimed aspect of moving a task into or out of the tasking horizon is encompassed in **Duncan**. **Duncan** discloses schedule control is concerned with (a) influencing the factors which create schedule changes to ensure that changes are beneficial, (b) determining that the schedule has changed, and (c) managing the actual changes when and as they occur (pg. 71 section 6.5).

Therefore, examiner maintains the rejection.

7. **Appellant argues**, at pg. 19-20, that the cited combination of **Duncan** and **Levinson**, with or without further reliance on **Official Notice**, does not teach or suggest the claimed feature of micro-analyzing various aspects of a particular worker's contribution to the project, as claimed in claims 15, 23, 28, and 33 . . . The final Office Action then takes **Official Notice** that "users or employees of business assets (e.g., computer, workstation, telephone) typically have the business assets assigned to them by the business, and that the business security practices require employees or users to

use their assigned business assets." Assuming *arguendo* that this taking of Official Notice is appropriate, this recognized element has no bearing on micro-analyzing an individual's performance, etc., in a project or as contributions to a company as recited in Appellant's claims. As such, claims 15, 23, 28 and 33 are distinguishable over the cited prior art based on their recited subject matter, in addition to the subject matter recited in their respective independent claims.

Examiner disagrees. Examiner has identified specific sections of the prior art that disclose Appellant's claimed invention in section (10) above, and justification for combining the prior art (Duncan and Levinson) in section (11)A.3 above. Additionally, examiner holds that users or employees of business assets (e.g., computer, workstation, telephone) typically have the business assets assigned to them by the business, and that the business security practices require employees or users to use their assigned business assets. This encompasses control of the employees/users by the business. Thus, when users/employees submit contributions, or any work-related efforts/outputs for an assigned project or effort, their supervisors or co-workers or others may review the contribution for quality and completeness. An example of this is Appendix C of Duncan, pg. 141-142, that states that, in addition to the Standards Committee and the contributors, the following individuals provided comments on various drafts of this document (pg. 142 section C.3), which constitutes or is synonymous with the concept of micro-analyzing an individual's performance.

Therefore, the rejection is maintained.

B. **Appellant argues**, at pg. 20-22, that motivation for modification of a reference must be shown in the prior art . . . Even if each and every feature of the claimed invention is known in the prior art as an independent concept (which is not the case), it is improper to reject Appellant's claims on the basis of a random assortment of such previously known concepts. That is, any combination of such concepts to reject Appellant's claims must be supported by motivation specifically identified in the prior art. If no such motivation is demonstrated, then the combination is improper.

Examiner agrees. Motivation to combine prior art references to disclose Appellant's claimed invention is encompassed in more than one of the examiner's response to arguments above, e.g., section (11)A.3, above.

Therefore, examiner maintains the rejection.

C. **Appellant argues**, at pg. 22-23, that the claimed invention must be considered as a whole. In order to properly reject the claims under obviousness, the claimed invention, as a whole, must be taught or suggested in the prior art.

Examiner Agrees. The combination of Duncan and Levinson does disclose Appellant's invention as a whole, see section (10) above. Additionally, justifications for the combination has been provided in the above sections, see particularly section (11)A.3.

Therefore, examiner maintains the rejection.

For the above reasons, it is believed that the rejections should be sustained.

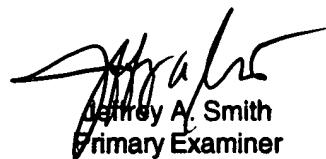
Respectfully submitted,

January 8, 2004

Conferees



Jeffrey Smith
Primary Patent Examiner
(Conferee)


Jeffrey A. Smith
Primary Examiner

Eric Stamber
Appeal Conference Specialist
(Conferee)



Forest Thompson
Patent Examiner
(Conferee)

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526